

REMARKS

By the foregoing amendment, Claims 1-8, 23-33 and 49-54 have been cancelled, and Claims 9, 10, 15-22, 34, 35, and 41-48 have been amended. Claims 17-22 and 43-48 have been amended to correct grammatical errors. Favorable reconsideration of the application is respectfully requested.

The Examiner objected to Claims 10, 15, 16, 35, 41 and 42, which have been amended in accordance with the Examiner's suggestions. It is therefore believed that the objections to Claims 10, 15, 16, 35, 41 and 42 can now be withdrawn.

Claims 9, 15, 16, 34, 41 and 42 were rejected under 35 U.S.C. §102(b) on the grounds of anticipation by Henry, disclosing measurement of a level of a light-reflecting substance in a storage silo. The Examiner indicated that in Henry the storage silo 10 mated with the entrance 16 which the Examiner identified as a support housing mated with the upper opening of the container. The construction and operation of the invention are entirely different from the storage silo of Henry, and to make Claims 9 and 34 clearer in this respect, Claim 9 has been amended to recite "a support housing moveable between an upward unlocked position and a downward locked position, said support housing being adapted to mate with the upper opening of the container in said downward locked position," and Claim 34 similarly has been amended to recite "a support housing moveable between an upward unlocked position and a downward locked position, said support housing being adapted to mate with the upper opening of the server container in said downward locked position." Support for the amendment can be found in the

specification at paragraphs 42-43 and 48-50, and in Figs. 4 and 5 illustrating the upward unlocked position and the downward locked position of the support housing. It is respectfully submitted that Henry does not teach, disclose or suggest a support housing moveable between an upward unlocked position and a downward locked position, and adapted to mate with the upper opening of the container in the downward locked position, as is claimed, and that Claims 9, 15, 16, 34, 41 and 42 are novel and inventive over Henry. It is therefore respectfully submitted that the rejection of Claims 9, 15, 16, 34, 41 and 42 on the grounds of anticipation by Henry should be withdrawn.

Claims 10-14, 17-19, 35-40 and 43-45 were rejected under 35 U.S.C. §103(a) on the grounds of obviousness from Henry in view of Skell et al., cited as disclosing an infrared emitting diode, and a light emitting device and a light detecting device at widely varying angles. It is respectfully submitted that Skell et al. also does not teach, disclose or suggest a support housing moveable between an upward unlocked position and a downward locked position, and adapted to mate with the upper opening of the container in the downward locked position, as is claimed.

With regard to claims 17-19 and 43-45, the Examiner urged that it would have been obvious to tilt lenses in conjunction with a light emitting device and a light detecting device such that light passing through the lenses would be normal to the surface of the lenses to prevent internal reflection and minimize distortion caused by refraction. However, this is not claimed. Claim 17 recites "wherein each of said protective lenses has an outer surface that is inclined with respect to the vertical, to allow condensation to flow off the protective lenses." The Examiner indicated that Skell et al. discloses a light

emitting device and a light detecting device at widely varying angles, but not at an angle to allow condensation to flow off the protective lenses, as is claimed.

It is therefore respectfully submitted that Claims 10-14, 17-19, 35-40 and 43-45 are novel and inventive over Henry and Skell et al., and that the rejection of Claims 10-14, 17-19, 35-40 and 43-45 on the grounds of obviousness from Henry in view of Skell et al. should be withdrawn.

Claims 20, 21, 46 and 47 were rejected under 35 U.S.C. §103(a) on the grounds of obviousness from Henry in view of Morikawa et al., cited as disclosing a light emitting device enclosed in a housing filled with a dry gas or in a state of vacuum. It is respectfully submitted that Morikawa et al. also does not teach, disclose or suggest a support housing moveable between an upward unlocked position and a downward locked position, and adapted to mate with the upper opening of the container in the downward locked position, as is claimed. It is therefore respectfully submitted that Claims 20, 21, 46 and 47 are novel and inventive over Henry and Morikawa et al., and that the rejection of Claims 20, 21, 46 and 47 on the grounds of obviousness from Henry in view of Morikawa et al. should be withdrawn.

Claims 22 and 48 were rejected under 35 U.S.C. §103(a) on the grounds of obviousness from Henry in view of Yeh et al., cited as disclosing a light emitting device defining a volume filled with a translucent material. It is respectfully submitted that Yeh et al. also does not teach, disclose or suggest a support housing moveable between an upward unlocked position and a downward locked position, and adapted to mate with the upper opening of the container in the downward locked position, as is claimed. It is

therefore respectfully submitted that Claims 22 and 48 are novel and inventive over Henry and Yeh et al., and that the rejection of Claims 22 and 48 on the grounds of obviousness from Henry in view of Yeh et al. should be withdrawn.

Applicant has reviewed the additional prior art made of record and not relied upon, and it is believed that the additional prior art made of record and not relied upon is no more pertinent than the reference actually applied.

In light of the foregoing remarks, an early favorable reconsideration of the application on the merits is respectfully requested.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By:

James W. Paul  
Reg. No. 29,967

JWP/rvw

Encls.: Return Postcard

Howard Hughes Center  
6060 Center Drive, Tenth Floor  
Los Angeles, CA 90045  
Telephone: (310) 824-5555  
Facsimile: (310) 824-9696  
Customer No. 24201